

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ALBERT V. WECHSLER, #2097787

§

VS.

§

CIVIL ACTION NO. 6:18cv580

PAM PACE, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Albert V. Wechsler, an inmate formerly confined at the Ellis Unit within the Texas Department of Criminal Justice proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. The lawsuit was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendation for the disposition of the case.

On January 4, 2022, Judge Mitchell issued a Report, (Dkt. #32), recommending that Plaintiff's civil rights lawsuit be dismissed, with prejudice, as frivolous. A copy of this Report was sent to Plaintiff at his last-known address, with an acknowledgment card. The docket reflects that the Report was returned to the Court—with "return to sender" and "unable to forward" notations, (Dkt. #33). To date, however, objections to the Report have not been filed.

Plaintiff's failure to provide the Court with an updated physical address evinces his failure to prosecute his own case. *See Martinez-Reyes v. U.S.*, 2016 WL 8740494, at *4 (S.D. Tex. Oct. 10, 2016) (explaining that, generally, "litigants, including prisoners, bear the burden of filing notice of a change of address in such a way that will bring attention of the court to address change.") (quoting *Theede v. U.S. Dep't of Labor*, 172 F.3d 1262, 1267 (10th Cir. 1999)).

Because objections to Judge Mitchell's Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and,

except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass*, 79 F.3d at 1430.

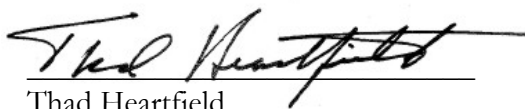
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that that the Report of the United States Magistrate Judge, (Dkt. #32), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Plaintiff's civil rights action is **DISMISSED**, with prejudice, as frivolous.

ORDERED that any and all pending motions which may be pending in this case are hereby **DENIED** as **MOOT**.

SIGNED this the 20 day of **January**, 2022.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge